

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

<b>JAMIE LYNN PAYNE,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>No. CIV-22-631-R</b>
	)	
<b>STEVEN HARPE,</b>	)	
<b>Director of the Oklahoma</b>	)	
<b>Department of Corrections,<sup>1</sup></b>	)	
	)	
<b>Respondent.</b>	)	

**ORDER**

Petitioner Jamie Lynn Payne, a Louisiana state prisoner appearing *pro se*, filed this action seeking an order requiring an Oklahoma court to provide him a speedy trial or, in the alternative, an order dismissing the pending charges against him.<sup>2</sup> (Doc. No. 1, at 15). Pursuant to 28 U.S.C. § 636(b)(1)(B), the matter was referred to United States Magistrate Judge Suzanne Mitchell for review. Judge Mitchell construed Petitioner’s petition as a 28 U.S.C. § 2241 habeas petition and issued a Report and Recommendation (Doc. No. 18) recommending that the Court grant Respondent’s motion in part and dismiss Petitioner’s

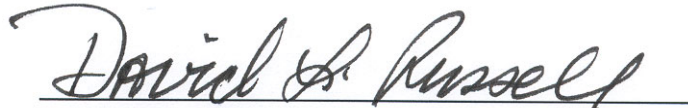
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<sup>1</sup> Steven Harpe is the current Director of the Oklahoma Department of Corrections and is automatically substituted as Respondent. See Fed. R. Civ. P. 25(d) (noting that when a public officer “ceases to hold office while the action is pending, . . . [t]he officer’s successor is automatically substituted as a party.”).

<sup>2</sup> Because Mr. Payne is a *pro se* litigant, the Court affords his materials a liberal construction, but it does not act as his advocate. See *United States v. Pinson*, 584 F.3d 972, 975 (10th Cir. 2009).

petition without prejudice for failure to exhaust state remedies.<sup>3</sup> No objection to the Report and Recommendation has been filed nor has Petitioner sought an extension of time in which to object. Therefore, the Report and Recommendation (Doc. No. 18) is ADOPTED in its entirety, and this case is DISMISSED without prejudice.

**IT IS SO ORDERED** this 9<sup>th</sup> day of March 2023.

  
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DAVID L. RUSSELL  
UNITED STATES DISTRICT JUDGE

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<sup>3</sup> Respondent made alternative arguments that the Court lacked jurisdiction because Petitioner was not “in custody” for purposes of 28 U.S.C. § 2241. Judge Mitchell recommends that the Court reject this argument: Respondent does not object.